

# **JOURNAL OF THE SENATE**

## **EIGHTY-NINTH SESSION**

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SEVENTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Thursday, January 23, 2014

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Josh Baumann, followed by the Pledge of Allegiance led by Senate page Kelsea Wilke.

Roll Call: All members present except Sen. Curd who was excused.

### **APPROVAL OF THE JOURNAL**

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the sixth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Corey Brown, Chair

Which motion prevailed.

## REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Commerce and Energy respectfully reports that it has had under consideration SB 48 and 52 and returns the same with the recommendation that said bills do pass.

Also MR. PRESIDENT:

The Committee on Commerce and Energy respectfully reports that it has had under consideration SB 45, 47, 49, and 50 and returns the same with the recommendation that said bills do pass and be placed on the consent calendar.

Respectfully submitted,  
Ried S. Holien, Chair

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration SB 22 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration SB 26 and returns the same with the recommendation that said bill do pass and be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Judiciary respectfully reports that it has had under consideration SB 21 and returns the same with the recommendation that said bill be amended as follows:

21ra

On page 3, line 5, of the printed bill, overstrike ", inclusive,".

On page 3, line 8, overstrike ", inclusive,".

On page 3, line 13, overstrike ", inclusive,".

On page 3, line 16, overstrike ", inclusive,".

1 On page 3, line 18, overstrike ", inclusive".

2 On page 4, line 4, overstrike ", inclusive,".

3 On page 4, line 5, overstrike ", inclusive,".

4 On page 4, line 11, overstrike ", inclusive,".

5 And that as so amended said bill do pass.

6 Also MR. PRESIDENT:

7 The Committee on Judiciary respectfully reports that it has had under consideration SB 24  
8 and returns the same with the recommendation that said bill be amended as follows:

9 24ra

10 On page 3, line 9, of the printed bill, after "electronically." insert "If a waiver is granted,  
11 the retailer shall disclose the record, upon request, to a law enforcement agency for a law  
12 enforcement purpose.".

13 On page 3, after line 9, insert:

14 "Section 4. That chapter 34-20D be amended by adding thereto a NEW SECTION to read  
15 as follows:

16

17 The attorney general may grant other South Dakota law enforcement agencies access to the  
18 electronic record-keeping system for the purpose of investigating any violation of this chapter."

19 And that as so amended said bill do pass.

20 Also MR. PRESIDENT:

21 The Committee on Judiciary respectfully reports that it has had under consideration the  
22 nomination of Mark Smith of Hughes County, Pierre, South Dakota, to the Board of Pardons  
23 and Paroles and returns the same with the recommendation that the Senate advise and consent  
24 to the confirmation of said appointment and that said appointment be placed on the consent  
25 calendar.

26

27

Respectfully submitted,  
Craig Tieszen, Chair

**MESSAGES FROM THE HOUSE**

MR. PRESIDENT:

I have the honor to transmit herewith HB 1024, 1037, 1050, and 1051 which have passed the House and your favorable consideration is respectfully requested.

Also MR. PRESIDENT:

I have the honor to transmit herewith HCR 1003 which has been adopted by the House and your concurrence is respectfully requested.

Respectfully,  
Arlene Kvislen, Chief Clerk

**MOTIONS AND RESOLUTIONS**

Sen. Rave moved that SB 64 and 63 be placed to follow SB 62 on today's calendar.

Which motion prevailed.

Sen. Omdahl moved that SB 62 be deferred to Monday, February 24, the 25<sup>th</sup> legislative day.

Which motion lost.

Sen. Rave moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on Friday, January 24, the 8<sup>th</sup> legislative day.

Which motion prevailed.

**CONSIDERATION OF EXECUTIVE APPOINTMENTS**

The Senate proceeded to the consideration of the executive appointment of Laurie Gill of Hughes County, Pierre, South Dakota, to the position of the Commissioner of the Bureau of Human Resources.

The question being "Does the Senate advise and consent to the executive appointment of Laurie Gill pursuant to the executive message as found on page 71 of the Senate Journal?"

1 And the roll being called:

2 Yeas 34, Nays 0, Excused 1, Absent 0

3 Yeas:

4 Begalka; Bradford; Brown; Buhl O'Donnell; Ewing; Frerichs; Heineman (Phyllis); Holien;  
5 Hunhoff (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas;  
6 Maher; Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden;  
7 Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

8 Excused:

9 Curd

10 So the question having received an affirmative vote of a majority of the members-elect,  
11 the President declared the appointment confirmed.

12 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

13 SB 75 Introduced by: Senators Lederman, Begalka, Ewing, Hunhoff (Jean), Kirkeby,  
14 Maher, Monroe, Peters, and Rave and Representatives Gibson, Bartling, Conzet, Greenfield,  
15 Haggar (Jenna), Hoffman, Magstadt, Olson (Betty), Rounds, Tulson, and Verchio

16 FOR AN ACT ENTITLED, An Act to prohibit local governments from enacting,  
17 maintaining, or enforcing regulations on certain dog breeds.

18 Was read the first time and referred to the Committee on Local Government.

19 SB 76 Introduced by: Senators Monroe, Begalka, Ewing, Jensen, Jones (Tom), and  
20 Omdahl and Representatives May, Duvall, Olson (Betty), and Stalzer

21 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the killing of  
22 mountain lions that threaten personal safety or property.

23 Was read the first time and referred to the Committee on Agriculture and Natural  
24 Resources.

25 SB 77 Introduced by: The Committee on Judiciary at the request of the Office of the  
26 Governor

27 FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete provisions  
28 regarding county prisoners.

29 Was read the first time and referred to the Committee on Judiciary.

1                   **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

2           HB 1024: FOR AN ACT ENTITLED, An Act to place certain substances on the controlled  
3 substances schedule and to declare an emergency.

4           Was read the first time and referred to the Committee on Health and Human Services.

5           HB 1037: FOR AN ACT ENTITLED, An Act to authorize the Transportation Commission  
6 to establish limited speed zones on nonstate trunk highways under the jurisdiction of the  
7 Department of Transportation.

8           Was read the first time and referred to the Committee on Transportation.

9           HB 1050: FOR AN ACT ENTITLED, An Act to revise certain enforcement actions by the  
10 insurance director.

11          Was read the first time.

12          HB 1051: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
13 regulation of captive insurance companies.

14          Was read the first time.

15                   **MOTIONS AND RESOLUTIONS**

16          HCR 1003: A CONCURRENT RESOLUTION, Recognizing the outstanding public  
17 service of President Calvin Coolidge and his support of Mount Rushmore.

18          Was read the first time and the President waived the referral to committee.

19                   **SECOND READING OF CONSENT CALENDAR ITEMS**

20          SB 30: FOR AN ACT ENTITLED, An Act to provide for the definition of an advanced  
21 practice registered nurse, to remove certification as a function of the Board of Nursing in  
22 issuing a license to a certified registered nurse anesthetist, and to change the nurses' education  
23 loan assistance program to a scholarship program.

24          Was read the second time.

25          The question being "Shall SB 30 pass?"

1 And the roll being called:

2 Yeas 34, Nays 0, Excused 1, Absent 0

3 Yeas:

4 Begalka; Bradford; Brown; Buhl O'Donnell; Ewing; Frerichs; Heineman (Phyllis); Holien;  
5 Hunhoff (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas;  
6 Maher; Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
7 Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

8 Excused:

9 Curd

10 So the bill having received an affirmative vote of a majority of the members-elect, the  
11 President declared the bill passed and the title was agreed to.

12 SB 56: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding auditing  
13 standards used by the Department of Revenue.

14 Was read the second time.

15 The question being "Shall SB 56 pass?"

16 And the roll being called:

17 Yeas 34, Nays 0, Excused 1, Absent 0

18 Yeas:

19 Begalka; Bradford; Brown; Buhl O'Donnell; Ewing; Frerichs; Heineman (Phyllis); Holien;  
20 Hunhoff (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas;  
21 Maher; Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
22 Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

23 Excused:

24 Curd

25 So the bill having received an affirmative vote of a majority of the members-elect, the  
26 President declared the bill passed and the title was agreed to.

27 SB 57: FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding the  
28 regulation of the trading stamp business.

29 Was read the second time.

30 The question being "Shall SB 57 pass?"

1 And the roll being called:

2 Yeas 34, Nays 0, Excused 1, Absent 0

3 Yeas:

4 Begalka; Bradford; Brown; Buhl O'Donnell; Ewing; Frerichs; Heineman (Phyllis); Holien;  
5 Hunhoff (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas;  
6 Maher; Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden;  
7 Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

8 Excused:

9 Curd

10 So the bill having received an affirmative vote of a majority of the members-elect, the  
11 President declared the bill passed and the title was agreed to.

## 12 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

13 SB 64: FOR AN ACT ENTITLED, An Act to require a waiting period prior to the  
14 adoption of new uniform content standards and to provide for an opportunity for public  
15 comment for all new content standards.

16 Was read the second time.

17 The question being "Shall SB 64 pass?"

18 And the roll being called:

19 Yeas 28, Nays 6, Excused 1, Absent 0

20 Yeas:

21 Begalka; Brown; Ewing; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Jones (Chuck);  
22 Jones (Tom); Kirkeby; Krebs; Lederman; Maher; Monroe; Novstrup (Al); Otten (Ernie); Peters;  
23 Rempelberg; Rave; Rhoden; Soholt; Solano; Tidemann; Tieszen; Van Gerpen; Vehle; Welke;  
24 White

25 Nays:

26 Bradford; Buhl O'Donnell; Frerichs; Lucas; Omdahl; Sutton

27 Excused:

28 Curd

29 So the bill having received an affirmative vote of a majority of the members-elect, the  
30 President declared the bill passed and the title was agreed to.



1 SB 63: FOR AN ACT ENTITLED, An Act to protect the privacy of the records of  
2 individual students.

3 Was read the second time.

4 63oa

5 Sen. Brown moved that SB 63 be amended as follows:

6 On page 4, after line 8 of the printed bill, insert:

7 "Section 7. Nothing in this Act prohibits the disclosure of aggregate data necessary to  
8 make an application for impact aid pursuant to Title VIII of the Elementary and Secondary  
9 Education Act."

10 Which motion prevailed.

11 63sa

12 Sen. Lucas moved that SB 63 be further amended as follows:

13 On page 4, line 8, of the printed bill, after "laws" insert "nor does this Act prohibit a school  
14 district from reporting student or family data that is necessary to apply for federal funds or  
15 grants".

16 Which motion lost.

17 63ya

18 Sen. Maher moved that SB 63 be further amended as follows:

19 On page 2, line 23, of the printed bill, after "problems" insert "or aspects".

20 Which motion prevailed.

21 The question now being "Shall SB 63 pass as amended?"

22 And the roll being called:

23 Yeas 34, Nays 0, Excused 1, Absent 0

24 Yeas:

25 Begalka; Bradford; Brown; Buhl O'Donnell; Ewing; Frerichs; Heineman (Phyllis); Holien;  
26 Hunhoff (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas;  
27 Maher; Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
28 Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

1        Excused:  
2    Curd

3        So the bill having received an affirmative vote of a majority of the members-elect, the  
4        President declared the bill passed and the title was agreed to.

5 SB 62: FOR AN ACT ENTITLED, An Act to establish a comprehensive evaluation of the  
6 common core state standards and to make an appropriation therefor.

7 Was read the second time.

8 62yb

9 Sen. Brown moved that SB 62 be amended as follows:

On page 2, line 21, of the printed bill, delete "appointed by the Governor" and insert "one appointed by the Governor, one appointed by the president pro tempore of the Senate, and one appointed by the speaker of the House".

13 Which motion prevailed.

14 62yc

15 Sen. Brown moved that SB 62 be further amended as follows:

16 On page 3, line 8, of the printed bill, after "appointed" insert "jointly".

17 On page 3, line 8, after "Governor" insert ", president pro tempore of the Senate, and the  
18 speaker of the House".

19 Which motion prevailed.

20 62aa

21 Sen. Rave moved that SB 62 be further amended as follows:

22 On page 3, line 18, of the printed bill, delete "one hundred" and insert "one dollar (\$1)".

23 On page 3, line 19, delete "thousand dollars (\$100,000)".

24 Which motion prevailed.

25 Sen. Rave moved the previous question.

26 Which motion prevailed.

1 The question being "Shall SB 62 pass as amended?"

2 And the roll being called:

3 Yeas 18, Nays 16, Excused 1, Absent 0

4 Yeas:

5 Begalka; Brown; Heineman (Phyllis); Hunhoff (Jean); Jones (Chuck); Krebs; Maher; Novstrup  
6 (Al); Otten (Ernie); Rampelberg; Rave; Rhoden; Soholt; Solano; Tieszen; Van Gerpen; Vehle;  
7 White

8 Nays:

9 Bradford; Buhl O'Donnell; Ewing; Frerichs; Holien; Jensen; Jones (Tom); Kirkeby; Lederman;  
10 Lucas; Monroe; Omdahl; Peters; Sutton; Tidemann; Welke

11 Excused:

12 Curd

13 So the bill not having received an affirmative vote of a two-thirds majority of the  
14 members-elect, the President declared the bill lost.

15 Sen. Rave moved that SB 34 and 35 be deferred to Tuesday, January 28, the 9<sup>th</sup> legislative  
16 day.

17 Which motion prevailed.

18 Sen. Frerichs moved that the Senate do now adjourn, which motion prevailed and at  
19 3:14 p.m. the Senate adjourned.

20 Jeannette Schipper, Secretary

21 **JOINT SESSION**

22 Pursuant to the report of the Joint-Select Committee, as found on page 30 of the Senate  
23 Journal, the Senate and the House of Representatives met in informal joint session in the House  
24 Chamber for the purpose of having a memorial service for deceased former members and  
25 reading of the following Joint Memorial Resolution:

26 **WHEREAS**, the Great Ruler of the Universe has ordered a final adjournment in the lives  
27 of eleven former members of the South Dakota Legislature, namely: the *Honorable Elmer*  
28 *Diedtrich*; the *Honorable Jay L. Duenwald*; the *Honorable Derald B. Gellhaus*; the *Honorable*  
29 *Donald A. Haggard*; the *Honorable John B. Heilman*; the *Honorable Ralph D. Homan*; the  
30 *Honorable Stanley A. Johnson*; the *Honorable Patricia E. Kenner*; the *Honorable Gilbert "Gil"*  
31 *Koetzle*; the *Honorable Alice Kundert*; and the *Honorable John D. Sears*; and

1       **WHEREAS**, in the lives of all these eminent public servants there was noted a profound  
2 urgency in an unselfish manner, with trials and vicissitudes often far outweighing honors, but  
3 with a consciousness that here in a land of freedom the dignity of the individual is supreme, that  
4 justice must be dispensed, and that only by eternal vigilance and unrelenting effort can self-  
5 government of a people be preserved; and  
6

7       **WHEREAS**, it is fitting that we humbly honor the memory of those who have thus  
8 contributed to the orderly process of government under the Constitution:

9       **NOW, THEREFORE, BE IT RESOLVED**, by the Senate and the House of  
10 Representatives of the Eighty-ninth Session of the Legislature of the State of South Dakota duly  
11 convened in recess session in recognition of the useful lives and unfailing devotion to the  
12 interests of the State of South Dakota, as well as the rectitude of thought and action and fidelity  
13 to the highest principles of American citizenship by these honorable people, that the Senate and  
14 the House of Representatives do now pause in their labors out of respect for the memory of their  
15 late fellow associates in the functions of government, and note that in their passing, the state  
16 they have served so well has suffered a distinct loss, and though their labors have ceased and  
17 they have been laid to rest, the people of this great state have benefited greatly from the services  
18 rendered by them and they have left upon the sands of time an inspiring record of devotion to  
19 their fellow citizens under the guiding hand of Almighty God; and

20       **BE IT FURTHER RESOLVED**, that this Resolution be printed in the journals of the  
21 Senate and the House of Representatives of the Eighty-ninth Session of the Legislature of the  
22 State of South Dakota, now assembled this 23rd day of January, 2014, at Pierre, South Dakota.